

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

QIANG GUO MAI, et al.,

Plaintiff,

vs.

WELLS FARGO HOME LOANS SERVICING,
 LP, et al.,

Defendants.

Case No. 2:11-cv-01530-KJD-PAL

ORDER

(Mot. Prot Ord - Dkt. #36)
 (Mot to Compel - Dkt. #38)

Before the court is Defendants' Motion for Protective Order (Dkt. #36), and Defendants' Motion to Compel Plaintiffs' Discovery Responses and Plaintiffs' Deposition (Dkt. #38). No response to either motion has been filed, and the time for filing a response has run.

The Motion for Protective Order (Dkt. #36) seeks an order protecting Defendants from responding to Plaintiffs' written discovery requests. Defendants assert Plaintiffs did not properly serve written discovery requests on them, but filed them eight days before the discovery cutoff. The Motion to Compel (Dkt. #38) seeks an order compelling Plaintiffs to provide complete responses to Defendants' written discovery requests which were served on Plaintiffs February 16, 2012, more than thirty days before the March 21, 2012, discovery cutoff. Defendants served the Plaintiffs with a notice to take their depositions on February 16, 2012, and served an amended deposition notice on February 20, 2012, changing the deposition location. The depositions were noticed for March 7, 2012. Counsel for Defendants telephoned Mr. Mai to confirm that the Plaintiffs would appear for their scheduled depositions and was informed that they would not. Counsel for Defendants offered to reschedule if the date was inconvenient. Plaintiffs did not respond to inquiries, and on March 7, 2012, counsel for Defendants appeared to note the Plaintiffs' non-appearance.

The discovery cutoff ran March 21, 2012. There is a Motion to Dismiss (Dkt. #4) under

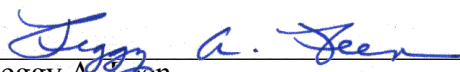
1 submission to the district judge, and the parties have until April 20, 2012, to file any other dispositive
2 motions.

3 LR 7-2(d) provides that “the failure of an opposing party to file points and authorities in
4 response to any motion shall constitute a consent to the granting of the motion.” Accordingly, the court
5 will grant Defendants’ motion for a protective order. However, because a motion to dismiss is pending,
6 and defense counsel expect to file a motion for summary judgment, the court will deny the motion to
7 compel without prejudice to re-open discovery for these limited purposes as to any claims which
8 survive after decision of dispositive motions.

9 **IT IS ORDERED** that:

- 10 1. Defendants’ Motion for Protective Order (Dkt. #36) is **GRANTED**.
- 11 2. Defendants’ Motion to Compel (Dkt. #38) is **DENIED without prejudice**. In the event
12 any of Plaintiffs’ claims survive dispositive motions, counsel for the parties shall meet
13 and confer within fourteen days of the district judge’s decision and order and submit a
14 proposed discovery plan and scheduling order to complete the limited discovery
15 addressed in these motions on the surviving claim(s).

16 Dated this 16th day of April, 2012.

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19 Peggy A. Leen
20 United States Magistrate Judge
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